

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Polina Zvyagina-Taber	Team: Team # 1	CCRB Case #: 200906589	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 04/26/2009 1:42 AM	Location of Incident: 1990 7th Avenue, near West 121st Street and 7th Avenue	Precinct: 28	18 Mo. SOL 10/26/2010	EO SOL 10/26/2010	
Date/Time CV Reported Sun, 04/26/2009 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/29/2009 7:31 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ian Abramowitz	00891	941307	028 PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Amey Kaminska	12955	941609	028 PCT
2. SGT Angel Velez	02699	933450	028 PCT
3. SGT Angel Leon	04861	917866	028 PCT
4. POM Jeremiah Wilson	08655	943962	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ian Abramowitz	Force: PO Ian Abromowitz used physical force against § 87(2)(b)	
B.POM Ian Abramowitz	Discourtesy: PO Ian Abramowitz spoke obscenely and/or rudely to § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D. Officers	Force: Officers hit § 87(2)(b) against a car.	

### Case Summary

§ 87(2)(b) made a complaint to IAB on May 4, 2009. The complaint, log number 09-21245, was referred to the CCRB on May 6, 2009.

On April 26, 2009, at approximately 1:00am, a shooting occurred on the corner of West 122<sup>nd</sup> Street and 7<sup>th</sup> Avenue in Manhattan. Officers were called to the location to secure the crime scene and engage in crowd control. PO Abramowitz arrested § 87(2)(b) who refused to leave the crime scene. The following allegations resulted from the officers' actions:

- **Allegation A:** PO Ian Abramowitz used physical force against § 87(2)(b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)
- **Allegation B:** PO Ian Abramowitz spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(b)
- **Allegation C:** Officers used physical force against § 87(2)(b)
- **Allegation D:** Officers hit § 87(2)(b) against a car. § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

This case was originally assigned to Inv. Esther Carpenter and due to her departure from the agency, the case was reassigned to the undersigned investigator on September 3, 2009.

### Results of Investigation

#### Civilian Statement(s)

**Complainant/Victim:** § 87(2)(b)

§ 87(2)(b)  
§ 87(2)(b)

#### CCRB Testimony (encl. 3)

§ 87(2)(b) was interviewed at the CCRB on May 15, 2009. § 87(2)(b)

On April 26, 2009, 7:00 PM, § 87(2)(b) had a birthday barbeque on 7th Avenue in between West 121<sup>st</sup> Street and West 122<sup>nd</sup> Street in Manhattan. By 1:00am, more than 100 people were on the block. At that time he heard seven gunshots and the crowd began to run. § 87(2)(b) got up and began to walk toward West 121<sup>st</sup> Street, which is where the shooting happened, because his car was parked in this direction and this was also the direction in which his mother lives. As he began to cross the intersection of West 121<sup>st</sup> Street and 7<sup>th</sup> Avenue, he saw the body of a boy lying on the ground, near the curb, with a gunshot wound to his head. The body was in the street, on the south side of the yellow lines that separated the two lanes of traffic on 7th Avenue. When he noticed the body, there were three or four other individuals around, but it "looked like they

were walking away.” He was concerned that the boy was a relative or friend so he slowed down, but continued to walk, and looked at the body. § 87(2)(b) motioned that he had to turn his head back to see the body because he was continually walking past the body. (Later in the interview, § 87(2)(b) stated that he may have stopped to look at the body, but it was no longer than three seconds. § 87(2)(b) added that he did not “walk up to the body and stand over it looking down at it.”) § 87(2)(b) did not recognize the boy. The entire time he was looking at the body, he was never closer than ten feet. He added that there was no yellow tape or any officers around the body.

At that moment, an officer, identified by the investigation as PO Ian Abramowitz, approached § 87(2)(b) left side with his arms extended and palms facing outward. § 87(2)(b) described PO Abramowitz as a 5’8” tall white male in uniform. PO Abramowitz shoved § 87(2)(b) left chest area and left shoulder and moved him backward, away from the body, about four feet. PO Abramowitz kept his hands on him the entire time he pushed him backward. § 87(2)(b) did not recall whether he made any arm movements after he was pushed but he did not hit or touch the officer. § 87(2)(b) asked, “Why are you pushing me? That could be my family. That could be my son laying there.” PO Abramowitz responded, “I don’t give a fuck who it is. Get back. Get out of the way.” § 87(2)(b) replied, “Okay, but you don’t have to push me.” § 87(2)(b) stated that there were other officers around at this point, but he was unable to describe them. He said they were trying to control the crowd and get people out of the way.

PO Abramowitz became “extremely aggressive” and instructed him to get on the ground. § 87(2)(b) did not comply and replied, “Get on the ground for what? Why am I getting on the ground? I’m not getting on the ground.” PO Abramowitz responded, “I don’t care who it is.” PO Abramowitz was still holding onto his left arm. A second officer then grabbed § 87(2)(b) right arm. The officers were trying to get his hands behind his back to throw him down on the ground because they never commanded him to put his hands behind his back; they only commanded him to get on the ground. § 87(2)(b) was unable to provide a description for the second officer but stated that he believed it was PO Abramowitz’s partner, identified by the investigation as PO Amey Kaminska, who was a female. § 87(2)(b) said that the two officers held him and tried to get him on the ground and “the weight got heavy on [him].” The additional officers were pushing and pulling him and trying to throw him off balance to get him on the ground. He stated that he was then forced to the ground from the weight. It took them about five seconds to get him to the ground.

§ 87(2)(b) was lying on the ground on his left side and was in the fetal position. His arms were parallel to each other and bent in front of his face, so that his forearms covered his face. His hands were in fists, near the crown of his head. The officers were hitting him in the back of his neck, the back of his body, and his forearms. He felt about twelve kicks and punches. This lasted for about a minute before an officer told him to move his hands and he told them that he was unable to. The officer then said, “You have to move your hands, you’re resisting arrest. Put your hands behind your back.” § 87(2)(b) then said, “Okay, okay, stop,” and moved his right hand and an officer grabbed it and placed it behind his back. § 87(2)(b) stated that when they took his left hand, he rolled “somewhat” onto his back. An officer then placed one knee on § 87(2)(b) cheek and “smashed [his] head” to the concrete. § 87(2)(b) stated that he received chipped teeth on the left side of his mouth from his jaw hitting the concrete. He stated that he also felt an officer put one knee on his neck. An officer then grabbed his left arm and pulled it behind his back. An officer placed handcuffs on his wrists and immediately after that, the officer took his knee off of § 87(2)(b) face and an officer kicked § 87(2)(b) in the middle of his

forehead. § 87(2)(b) stated that this kick “split” his forehead, causing a laceration that was bleeding. At the time of the interview, there was a scar about an inch long in the middle of his forehead, near the top. An officer then kicked § 87(2)(b) in his right eye. § 87(2)(b) stated that he sustained a black eye from being kicked and added, “I was told, over time, that a blood vessel burst in my eye” and noted that his eye was red. At the time of the interview, there was a red dot to the right of § 87(2)(b) pupil. § 87(2)(b) stated that the entire time, he was not moving his feet or body at all and did not attempt to get up. He added that he received some scrapes on the left side of his body from being on the concrete. He also stated that he believed his back was bruised from being kicked. § 87(2)(b) was also sore from the incident.

About fifteen seconds after he was handcuffed, the officers then picked § 87(2)(b) up off the ground and placed him against a taxi. Another officer whom § 87(2)(b) could not describe said, “Get him out of here! Get him the fuck out of here! Get a car! Where’s my cruiser?” They pulled § 87(2)(b) off the cab and walked him to a marked vehicle. PO Abramowitz and PO Kaminska drove him to the 78<sup>th</sup> Precinct stationhouse.

An hour later, an officer offered § 87(2)(b) medical attention, letting him know that EMTs were in the stationhouse. § 87(2)(b) stated that he refused “out of anger” and he did not want anyone to touch him because he wanted to let the judge see what the officers did to him. § 87(2)(b) said he also refused medical attention from Correction officers for the same reason.

§ 87(2)(b) went to the emergency room at § 87(2)(b) on either § 87(2)(b) to treat his injuries. According to the medical documents from § 87(2)(b), § 87(2)(b) told them “I was beat up by NYPD on Sunday morning and I am just now feeling the effects.”

### **Attempts to Contact Civilians**

On July 2, 2009, Inv. Carpenter went to the location of the incident. She spoke with the owner of a 24 hour grocery store on the northwest corner of 7th Avenue and 121st Street and he did not witness any incident. He stated that no one working there would have witnessed the incident. Please call letters were left at apartments of the four buildings surrounding the incident location and there was no response to these letters. § 87(2)(b)’s friend “§ 87(2)(b)” could not be located at the place of occurrence.

### **NYPD Statement(s):**

#### **Subject Officer: PO IAN ABRAMOWITZ**

- § 87(2)(b) -old white male, height 5’9”, weight 170 pounds, blonde hair, green eyes.
- On April 26, 2009, Officer Abramowitz was working in uniform from 11:15pm to 7:50am. He was assigned to sectors D and E with PO Kaminska. He was assigned to marked vehicle 1636.

#### **Memo Book: (encl. 7)**

“1:42: 1 under from 121 7th Ave for OGA and resisting arrest”

The **complaint report** (encl. 8) states that on April 26, 2009, at 1:31am, on the northwest corner of 7th Avenue and West 121 Street PO Abramowitz arrested § 87(2)(b) because while PO Abramowitz was guarding a crime scene, § 87(2)(b) pushed him out of he way. § 87(2)(b) did flail his arms to prevent PO Abramowitz from making a lawful arrest.

The arrest report states that § 87(2)(b) was arrested on the northwest corner of 7th Avenue and West 121 Street at 1:42am. "At tpo, A/O was guarding a crime scene when perp pushed A/O out of way, perp did flail arms to prevent A/O from making lawful arrest." Physical force was used to prevent escape.

**CCRB Testimony** (encl. 9)

PO Ian Abramowitz was interviewed at the CCRB on July 27, 2009. On April 26, 2009, at approximately 1:42am, PO Abramowitz was at 52 West 125th Street finishing a job for a burglary when he received a call from his sergeant, Sgt. Angel Velez, for additional units to assist in crowd control at 121st Street and 7th Avenue. One minute later, the sergeant called EMS to the scene for a thirteen-year-old male who was shot in the back of the head. The sergeant initially requested units for crowd control because individuals were having a cookout on the streets and there were about 500 people on the southbound sidewalk of 7th Avenue.

It took about two minutes for Officer Abramowitz and his partner to arrive at the scene. PO Abramowitz parked his car in the middle of the intersection at 121st Street. He then went to guard the crime scene, which was in the crosswalk on the southbound side of 7th Avenue and 121st Street. He and about twenty to twenty five other officers were trying to establish the perimeter of the crime scene around the body so they encircled it. Some of these officers were from his precinct, but he could not recall who they were.

Multiple civilians tried to get past the officers and they were "throwing nasty comments towards [them]." PO Abramowitz was guarding the crime scene for about a minute or two when he realized that an individual, whom he identified as § 87(2)(b) slipped by him past his left side. PO Abramowitz informed § 87(2)(b) that he could not be that close to the crime scene. § 87(2)(b) stated that he knew the boy who had been shot. PO Abramowitz again responded that he could not be that close to the crime scene. PO Abramowitz then later stated that § 87(2)(b) mentioned that he knew the kid after he was placed in handcuffs. Officer Abramowitz did not use any profanity towards § 87(2)(b). He specifically did not say or hear any other officer say, "I don't give a fuck who it is," when § 87(2)(b) stated that he knew the boy who was killed.

§ 87(2)(b) was looking at the body and was less than two feet away; he looked like he was going to touch it. PO Abramowitz was about a foot or two away from § 87(2)(b) and after he told § 87(2)(b) to leave once, § 87(2)(b) pushed PO Abramowitz to the ground. PO Abramowitz immediately stood back up and attempted to place § 87(2)(b) under arrest. PO Abramowitz grabbed § 87(2)(b) wrists and shoulder. § 87(2)(b) began to struggle when he was placing him in handcuffs. § 87(2)(b) was moving his arms and twisted his shoulders back and forth. Multiple officers then noticed the struggle and came to assist. PO Kaminska assisted in placing § 87(2)(b) in handcuffs. PO Abramowitz was unable to specify who else assisted. § 87(2)(b) was placed face down on the ground to be handcuffed. PO Abramowitz did not recall § 87(2)(b) with his hands in front of his face, shielding his face, as he was on the ground being handcuffed. PO Abramowitz did not see any officer kick or hit § 87(2)(b) as he was on the ground. PO Abramowitz denied placing a knee on § 87(2)(b) face and hitting his head into the concrete and did not see any other officer do this. PO Abramowitz did not kick § 87(2)(b) in the middle of his forehead or his right eye and did not see any other officer do this. While § 87(2)(b) was on the ground, an officer had to hold his shoulders down because he was still resisting. He was unsure of who this was and how that officer held down his shoulders. It

took about twenty to thirty seconds to eventually handcuff him. § 87(2)(b) continued to struggle with the other officers.

PO Abramowitz and PO Kaminska then escorted § 87(2)(b) to their marked vehicle. PO Abramowitz denied that he pushed § 87(2)(b) into the hood of a vehicle. The patrol car was about twenty to twenty-five feet away from where § 87(2)(b) had been arrested. PO Abramowitz noticed that § 87(2)(b) had a small laceration to his forehead when they placed him in the car to be transported. PO Abramowitz did not know how it was sustained. After § 87(2)(b) was placed in the vehicle, a sergeant instructed PO Abramowitz and his partner to block traffic. They did so by stopping their vehicle in the crosswalk and remaining there with their lights activated. They stayed there for about ten minutes and then transported § 87(2)(b) to the stationhouse.

**Witness Officer: SGT. ANGEL VELEZ**

- § 87(2)(b) -old Hispanic male, height 5'11", weight 225 pounds, black hair and brown eyes
- On April 26, 2009, he worked from 11:05pm until 10: 02am. He was assigned to RMP 2863 operated by PO McGinnis. He was dressed in uniform and was the patrol supervisor for the day.

**Memo Book** (encl. 13)

At 1:17am, three males were shot at West 121<sup>st</sup> Street and 7<sup>th</sup> Avenue.

**CCRB Testimony** (encl. 14)

Sgt. Velez was interviewed at the CCRB on October 16, 2009. He received a call that three males were shot at West 121<sup>st</sup> Street and 7<sup>th</sup> Avenue. He was less than one block away from that intersection so he and PO McGinnis were of the first officers on the scene. When he arrived, approximately two minutes after the gunshots, there may have been two police units, both were patrol cars. There was a § 87(2)(b) -year-old boy lying in the middle of the intersection motionless. Sgt. Velez was the commanding officer at the location so he had to shout out orders to the various officers that were there. He also called EMS, which arrived a few minutes later. There were more than 400 to 500 civilians gathered on the street at this time. Sgt. Velez thought that the large amount of people was due to a neighborhood barbeque that was taking place right before the incident. Sgt. Velez paid no attention to which officers were at the scene. People were too close to the body. The victim was lying on the ground with a gunshot wound to his head and he was not moving. Sgt. Velez told two of three officers that were there to establish a crime scene and hold the crowds back away from the body. He called for backup and called ESU.

Civilians, who may have been relatives of the gun-shot victim, were persistently trying to get closer to the body to examine it. At one point, he did see PO Abramowitz on the scene. He did not know who his partner was. Sgt. Velez did not see PO Abramowitz interacting with one particular individual and he did not see him trying to arrest anyone. He did not see him holding an individual down on the ground with his knee and he did not see him later push this person into the hood of a car.

Five to ten minutes after his arrival, police tape was put around the body of the individual who was shot and people no longer tried to get close to him.

Sgt. Velez believed that Sgt. Leon came to the location a few minutes after him and was directing officers to establish control over the crowd. He did not have visual contact with him throughout the incident and did not know when he left.

**Witness Officer: SGT. ANGEL LEON**

- § 87(2)(b) -old Hispanic male, height 5'5", weight 180 pounds, black hair and brown eyes.
- On April 26, 2009, he was assigned to be the desk sergeant at the 28<sup>th</sup> Precinct stationhouse. He worked from 11:05pm until 8:02am.

**Memo Book** (encl. 11)

There are no entries in his memo book regarding the incident.

**CCRB Testimony** (encl. 12)

On April 26, 2009, Sgt. Leon was the desk sergeant at the stationhouse. The T/S operator for the day was PO Wien. Sgt. Leon stated that at approximately 1:00am, he started to get a multitude of calls regarding a shooting that had taken place on what he thought was 114<sup>th</sup> Street and 7<sup>th</sup> Avenue. From what he heard on the radio it was very chaotic and calls came over requesting backup and stating that there were crowd control issues. Sgt. Leon did not recall who these calls came from. At some point, PO Abramowitz brought § 87(2)(b) into the precinct. § 87(2)(b) had blood running down his face from a cut on his forehead, but he refused medical attention when Sgt. Leon told him that EMS was at the stationhouse. After PO Abramowitz brought § 87(2)(b) in, he dealt with the arrest processing and it was Sgt. Leon that discussed medical attention with § 87(2)(b).

Neither Sgt. Leon nor PO Wien ever left the stationhouse on this evening during the tour. They were never on the scene and never saw anything that actually happened there. Sgt. Leon did not hear what happened with § 87(2)(b) why he was arrested and who assisted in the arrest.

**Witness Officer: PO JEREMIAH WILSON**

- § 87(2)(b) -old black male, height 6'1", weight 190 pounds, black hair, brown eyes.
- April 26, 2009, he worked from 11:15pm until 7:50am. He was assigned to stationhouse security and at 12:55am

**Memo Book** (encl. 15)

On April 26, 2009, at 12:55am, PO Wilson transported a prisoner to § 87(2)(b). At 4:36am, he transported a prisoner to Manhattan Central Booking.

**CCRB Testimony** (encl. 16)

According to the roll call, PO Wilson was supposed to be Sgt. Velez's operator but at the time of the incident, he was at § 87(2)(b) where he had transported a prisoner.

**Witness Officer: PO AMEY KAMINSKA**

- § 87(2)(b) -old white female
- On April 26, 2009, she worked from 11:15pm until 07:50am in Sectors D and E in RMP 1636. She was in uniform

**Memo Book** (encl. 10)

At 1:42am, one person is under arrest at 122<sup>nd</sup> Street and 7<sup>th</sup> Avenue. At 2:00am, she was reassigned to § 87(2)(b).

### **CCRB Testimony**

PO Kaminska was not interviewed by the CCRB § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### **Medical Records** (encl. 17)

The medical documents from § 87(2)(b) state that § 87(2)(b) was admitted on § 87(2)(b). § 87(2)(b) said that he was beat up by the NYPD three days ago. During the time of the incident, he refused medical treatment. He complained of back pain, pain of right side of the face and neck. He also had a contusion-abrasion of the forehead and bruises of face, back and upper extremities. There is chip fracture of #10 tooth.

Three views of the cervical spine were obtained by § 87(2)(b) and it was found that there was "straightening of the normal cervical lordosis which may be secondary to muscle spasm." However, there was no other issue and no acute fracture was identified. Three views of the lumbosacral spine were obtained and there appeared to be no issues, no evidence of fracture of dislocation. § 87(2)(b) also had a blood-shot right eye with no obvious deformity and an abrasion to middle of his forehead.

He was referred to the surgery unit for a check-up and diagnosed with neck sprain and strain. He was given Lioresal and Ultram for the pain.

### **NYPD Documents**

#### **SPRINT** (encl. 18b)

The SPRINT states that on April 26, 2009, a call was made for shots fired at 7<sup>th</sup> Avenue and 122<sup>nd</sup> Street. Sector 28I was originally assigned to job. At 1:42am, there was a crime arrest by 28D. At 1:43 AM, there was a request for EMS to the 28 Precinct stationhouse for an injured prisoner. EMS was on the scene at 2:34am.

#### **The Prisoner Holding Pen Roster** (encl. 18s)

The Prisoner Holding Pen Roster lists that § 87(2)(b) was arrested at 1:55am and signed out at 3:55am.

#### **28<sup>th</sup> Precinct Command Log** (encl. 18t)

§ 87(2)(b) was brought into the stationhouse at 1:47am. He was arrested by PO Abramowitz for OGA/Resisting Arrest. He was bleeding from his head.

#### **Roll Call** (encl. 18c-r)

Patrol Supervisors were Sgt. Leon and Sgt. Velez, 933450. They worked from 11:05pm until 8:02am. PO Abramowitz and PO Kaminska were assigned to sectors D and E in vehicle 1636.

### **Arrest for Incident and Disposition**



- On § 87(2)(b), § 87(2)(b) pled guilty to disorderly conduct § 87(2)(b)

#### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 14, 2010 with regard to the incident. (encl. 21)

#### **Civilian's Criminal History**

- § 87(2)(b)

#### **Civilian's CCRB History**

- § 87(2)(b)

#### **Subject Officer's CCRB History**

- PO Ian Abramowitz has been a member of the service for three years and there are no substantiated CCRB allegations against him. (encl. 2)

#### **Conclusion**

#### **Identification of Subject Officers**

- PO Abramowitz acknowledged that he interacted with § 87(2)(b)
- As § 87(2)(b) could not describe the additional officers who used force against him and PO Abramowitz confirmed that additional officers assisted him in handcuffing and apprehending § 87(2)(b) a force allegation has been pleaded against "officers" from the 28<sup>th</sup> Precinct.

#### **Investigative Findings and Recommendations**

##### **Allegation A: PO Ian Abramowitz used physical force against § 87(2)(b)**

§ 87(2)(b) stated that he was hovering over the body of the shot male when he was told by PO Abramowitz to step away. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

##### **Allegation B: PO Ian Abramowitz spoke obscenely and/or rudely to § 87(2)(b)**

§ 87(2)(b) stated that PO Abramowitz told him, "I don't give a fuck who it is. Get back." PO Abramowitz denied using this phrase while telling § 87(2)(b) to get back. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

##### **Allegation C: Officers used physical force against § 87(2)(b)**

**Allegation D: Officers hit § 87(2)(b) against a car.**

§ 87(2)(b) had no physical descriptions of any officers that physically interacted with him while he was being handcuffed on the ground aside from PO Abramowitz. Neither PO Abramowitz nor Sgt. Velez could name the officers who were assisting PO Abramowitz in making the arrest. § 87(2)(b) did not recall what the three officers that allegedly slammed him into a taxi looked like. There is no documentary evidence illustrating which officers responded to Sgt. Velez's call for backup. § 87(2)(g)

§ 87(2)(g)

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Team: 1

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Investigator:	_____	<u>Polina Zvyagina-Taber</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date